

Wisconsin Farmland Preservation Credit Situations and Solutions

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IMPORTANT CHANGES

There are no substantive changes since the last version of this publication.

I. INTRODUCTION

Each year numerous Wisconsin farmland preservation credit claims require a letter to the claimant to obtain additional information. In addition, many claims are adjusted unnecessarily, because insufficient information was provided when the claim was filed.

This publication lists common situations that require special attention and may require additional documentation or explanations when filing a farmland preservation credit claim. For each situation, solutions are given that will help avoid having a farmland preservation credit claim adjusted or having a letter sent to the claimant to obtain additional information. In the solutions, the instruction to “attach” various items means attach them to the farmland preservation credit claim submitted to the Department of Revenue.

CAUTION

The information in this publication reflects interpretations by the Wisconsin Department of Revenue of laws enacted by the Wisconsin Legislature as of December 1, 2001. Laws enacted after this date, administrative rules, and court decisions may change the interpretations in this publication.

II. SITUATIONS AND SOLUTIONS

A. Situations Relating to Attachments or Verification

1. *Ownership not verified when other names on tax bill(s)*

Situation: One or more property tax bills list “et al” (which means “and others”), or names other than or in addition to the claimant or the claimant’s spouse as owners; and the claimant’s ownership is not properly verified.

Solution:

- Attach verification of the claimant’s and/or spouse’s ownership percentage. Verification may be a copy of any of the following:
 - A deed or land contract to verify: (a) the claimant’s ownership percentage in co-owned property; (b) acquisition by purchase (also see Situation #A.3 on page 2) or by a means other than a purchase; or (c) a life estate. (**Note:** Ownership verification is not required if the tax bill lists the claimant’s name and another name as owners, and the claimant claims only 50% of the property taxes.)
 - A Wisconsin Schedule 3K-1 to verify the percentage of ownership of capital in a partnership, where the partnership is the owner of the property.
 - A Wisconsin Schedule 3K-1 to verify the ownership interest in a limited liability company (LLC) treated as a partnership, where the LLC is the owner of the property.
 - A Wisconsin Schedule 5K-1 to verify the percentage of stock ownership in a tax-option (S) corporation, where the S corporation is the owner of the property.
 - A divorce judgment, including the final stipulation, for property acquired through a divorce.
 - A final judgment in an estate, for property acquired by inheritance.
 - A trust instrument, where the claimant is a trust that owns the property, or where the claimant is an individual who is the grantor of a revocable trust or a grantor with a life estate.
- If documentation of ownership and an explanation were provided with a previous year’s farmland preservation credit claim and the percentage of ownership has not changed, attach a note indicating this. It is not necessary to resubmit the documentation with the current year’s claim.

- If the property is co-owned with persons other than the claimant's spouse, claim only the portion of the property taxes reflecting the claimant's and spouse's ownership percentage.

2. *Proper zoning certificate and/or farmland preservation agreement not attached when required*

Situation: Either (1) the zoning certificate or (2) the farmland preservation agreement: (a) is not attached when required; (b) does not cover all of the property for which property taxes are being claimed; or (c) is not properly executed.

Solution:

- (1) Property subject to an exclusive agricultural use zoning ordinance –
 - Attach a zoning certificate (or certificates) covering all of the property for which property taxes are being claimed, unless the exception below applies. A zoning certificate must be attached if:
 - none was submitted with a previous year's claim;
 - during the claim year land was sold or purchased (also see Situation #A.3 on this page);
 - part or all of the land was rezoned;
 - the ownership changed; or
 - there was a change in the parcel numbers or acreage.

The zoning certificate must be certified for the year to which the claim relates, by being signed and dated on or after the last day of the claimant's taxable year. It must be signed by both the local zoning authority and the county land conservation committee (LCC) authority (if both the authorities are the same person, that person must sign in both applicable spaces).

- **EXCEPTION:** If a zoning certificate was submitted with a previous year's Schedule FC, **and** no changes have occurred relating to the information on it, it is not nec-

essary to attach another zoning certificate to the current year's claim. However, the claimant must notify the county LCC that the claimant intends to file a Schedule FC for the current year, and the box on line 17 of Schedule FC must be checked to certify the notification and that no changes have occurred.

- (2) Property subject to a farmland preservation agreement –

- Attach a copy of the **executed** farmland preservation agreement, transition area agreement, farmland preservation agreement data sheet, or extension of farmland preservation agreement covering all of the property for which property taxes are being claimed. If an extension agreement does not include parcel numbers and legal descriptions, also attach a copy of the original farmland preservation agreement.

The agreement must have been applied for before July 1 of the year to which the claim relates, and it must have been executed. "Executed" means it has been approved by the Wisconsin Department of Agriculture, Trade and Consumer Protection, (DATCP), and a copy has been signed by the claimant, notarized, and returned to DATCP. If an agreement expired during the year to which the claim relates, it must have expired on or after July 1.

- If property was sold or purchased during the year to which the claim relates, see Situation #A.3 below for information about what documents must be attached.

3. *Proper documentation not attached when property sold or purchased*

Situation: During the year to which the claim relates the claimant (1) sold or (2) purchased property for which property taxes are being claimed, and proper documentation relating to the sale or purchase is not attached.

Solution:

- (1) Property sold during the year —

- Attach a copy of the closing statement pertaining to the sale.
- Attach a copy of the deed or land contract.
- If the property is subject to exclusive agricultural use zoning, attach a zoning certificate issued in the claimant's name, and certified for the year to which the claim relates (see Situation #A.2 on page 2).
- Claim the property taxes allocated to the seller in the closing statement for property covered by a zoning certificate or a farmland preservation agreement. If no property taxes are allocated in the closing statement or in an agreement signed by both the seller and the buyer, no property taxes may be claimed by the seller for the sold property. In this situation, the closing statement and zoning certificate regarding the sold property do not have to be attached.

(2) Property purchased during the year —

- Attach a copy of the closing statement pertaining to the purchase.
- Attach a copy of the deed or land contract.
- Attach copies of the property tax bills for the year to which the claim relates, for the purchased property.
- If the property is subject to exclusive agricultural use zoning, attach a zoning certificate issued in the claimant's name, and certified for the year to which the claim relates (see Situation #A.2 on page 2).
- If the property is subject to a farmland preservation agreement, attach an executed copy of the farmland preservation agreement or farmland preservation agreement data sheet currently in effect.
- Claim the net property taxes from the property tax bills for the year to which the claim relates, for property subject to a zoning certificate or a farmland preservation agreement, minus the property taxes allocated to the seller in the closing statement. If no property taxes are allocated in the closing statement or

in an agreement signed by both the seller and the buyer, the full amount of net property taxes may be claimed by the purchaser for the purchased property.

4. Complete copy of federal tax return not attached

Situation: A complete copy of the federal income tax return is not included with the Wisconsin income tax return and Schedule FC.

Solution: Attach a complete copy of the federal income tax return, including supporting forms and schedules. (**Note:** A copy of the federal return is not necessary if there is no Wisconsin income tax filing requirement and Schedule FC is filed without a Wisconsin tax return. In this situation, attach an income schedule showing each source and amount.)

B. Situations Relating to Property Taxes

1. Correct property tax bills not attached

Situation: Either: (1) property tax bills are for the wrong year; (2) property tax bills are illegible or incomplete, or documents other than property tax bills or signed computer printouts are attached for property tax verification; or (3) property tax bills are not attached for all the parcels for which property taxes are being claimed.

Solution:

(1) Correct year —

- Be sure the correct year's property tax bills are attached (for example, the property tax bills attached to a 2001 farmland preservation credit claim must be 2001 property tax bills, most likely issued in December 2001, and payable in 2002). Property taxes for the year to which the claim relates do not have to be paid in order to claim the credit. However, see Situation #B.2 on page 4, relating to payment of the prior year's property taxes.

(2) Complete, legible property tax bills —

- Attach the original or legible duplicates, carbon copies, or photocopies of the property tax bills, or computer printouts signed by the

county or municipal treasurer. The property tax bills or computer printouts must show all of the following information: the year; the owner's name; the parcel numbers and legal description of the property; the acreage; the assessed value of land and improvements; any special assessments; property taxes before and after state aids and credits, including lottery and gaming credit, if applicable; and a space for indicating whether there are unpaid property taxes for prior years.

- Do **not** attach installment tax stubs, mortgage statements, computer printouts that are not signed by the county or municipal treasurer, canceled checks, or money order receipts as verification of property taxes. They cannot be accepted as a substitute for the property tax bills.

(3) All property tax bills —

- Attach property tax bills or signed computer printouts for each parcel for which property taxes are being claimed.

2. Verification of prior year's property tax payment not attached when property tax bill indicates unpaid prior taxes

Situation: One or more property tax bills indicate that there are unpaid property taxes for a prior year, and verification that the prior year's property taxes are paid is not attached. (**Note:** In this Situation and Solution, "the prior year's property taxes" are the property taxes for the year before the year to which the claim relates. The **current** year's property taxes do not have to be paid in order to claim the credit.)

Solution: Attach a signed statement from the county treasurer's office, indicating that the prior year's property taxes for the parcels indicating unpaid property taxes are paid in full, unless the following exception applies.

EXCEPTION: If the credit is computed using the prior year's law method and the claimant's farmland preservation agreement was executed before May 17, 1988, it does not matter whether the prior year's property taxes have been paid. No action relating to the unpaid property taxes is required in this situation.

3. Tax parcel information on property tax bills and zoning certificate does not match

Situation: The tax parcel information (parcel number and acreage) on the zoning certificate does not match the information on the property tax bills.

Solution: Before filing the claim, verify the accuracy of the tax parcel information on the most recent zoning certificate. If it differs from the information on the property tax bills, obtain a corrected zoning certificate from the local zoning authority.

4. Property taxes claimed for property not subject to zoning certificate or farmland preservation agreement

Situation: One or more property tax bills include property not subject to a zoning certificate or a farmland preservation agreement, or property located partly inside and partly outside an area zoned for exclusive agricultural use or subject to a farmland preservation agreement, and all of the property taxes on those property tax bills are claimed.

Solution:

- Include only the property taxes for the land and improvements subject to exclusive agricultural use on the zoning certificate or subject to the farmland preservation agreement. Use Worksheet 3 in the farmland preservation credit instruction booklet to prorate the property taxes.
- If a property tax bill includes improvements on land partly subject to and partly not subject to a zoning certificate or farmland preservation agreement, attach a statement from the assessor, indicating the assessed value of the improvements on the land that is subject to the certificate or agreement.

5. Special assessments, special charges, etc., claimed as property taxes

Situation: The amount claimed on line 11a or 11b of Schedule FC (the property tax lines) includes special assessments or other charges.

Solution: Claim only the net general property taxes, after state aids and credits, including lottery and gaming credit if applicable, are subtracted. Do not include special assessments, special charges, delinquent interest, dog tax, or tax for managed forest land, woodland, or forest cropland.

C. Situations Relating to Income

1. *Incorrect amount of net operating loss carry-forward claimed*

Situation: The Wisconsin income tax return includes a deduction for a net operating loss (NOL) carryforward that is not computed correctly.

Solution: Be sure the income reported on the Wisconsin income tax return reflects the correct deduction for a Wisconsin NOL carryforward. Use the following steps to do this computation.

- (a) Add any federal NOL carryforward deduction claimed on the federal return to Wisconsin income on line 4 of Form 1.
- (b) Compute Wisconsin income before any deduction for an NOL carryforward.
- (c) Look up the Wisconsin standard deduction based on the income in step (b), and subtract it from the income in step (b). (**Note:** If the standard deduction is larger than the income in step (b), no deduction is allowed for a Wisconsin NOL carryforward.)
- (d) The allowable deduction for a Wisconsin NOL carryforward is the lesser of the amount computed in step (c) or the Wisconsin NOL carryforward available.

More information about computing the Wisconsin NOL carryforward is available in Wisconsin Publication 120, *Net Operating Losses for Individuals, Estates, and Trusts*.

2. *Deferred compensation contributions not included in income on Schedule FC*

Situation: One or more wage and tax statements (Form W-2) of the claimant or the claimant's spouse indicate that contributions to a deferred compensation plan have been excluded from tax-

able income, and the excluded contributions are not included in income on Schedule FC.

Solution: Include on line 1 of Schedule 2 (on the back of Schedule FC) all contributions made to a deferred compensation plan during the year that have been excluded from taxable wages. Generally these amounts are reported in box 12 of the Form W-2 and are preceded by the prefix "D," "E," "F," "G," or "H."

3. *Social security, pensions, or other retirement benefits not included in income on Schedule FC*

Situation: During the year to which the claim relates, the claimant or the claimant's spouse received: (1) social security, SSI, or railroad retirement payments (or is age 65 or older and did not receive social security, SSI, or railroad retirement); or (2) pensions, annuities, or distributions from a deferred compensation, IRA, Keogh, SEP, or SIMPLE plan; and the income is not included on Schedule FC.

Solution:

- (1) Social security, SSI, and railroad retirement —
 - Report the **gross** amount of social security or SSI on line v of Schedule 2 (on the back of Schedule FC), and report the **gross** amount of railroad retirement benefits on line r of Schedule 2. If Medicare premiums were deducted, include the amounts deducted (for example, \$50.00 per person for each month of 2001 — \$600.00 for the entire year), not just the net amount of the checks.
 - Include the \$255 social security death benefit if one was received.
 - Do **not** include social security or SSI payments to the claimant's children.
 - Do **not** include payments for services that are made under Title XX of the Social Security Act.
 - If the claimant or the claimant's spouse was age 65 or older as of December 31 and did not receive either social security, SSI, or rail-

road retirement benefits during the year, attach a note explaining this.

(2) Pensions, etc. —

- Report the **gross** amount of pensions (including veterans' pensions and disability payments), annuities, and **distributions from** a deferred compensation, IRA, Keogh, SEP, or SIMPLE plan. Include the taxable portion on line 6a of Schedule FC, and include the nontaxable portion on line r of Schedule 2 (on the back of Schedule FC). The "gross" amount includes amounts constituting the claimant's contributions to a retirement plan. (**Note:** See Situation #C.2 on page 5, regarding **contributions to** a deferred compensation plan.)
- Do **not** include rollovers (amounts transferred from one retirement plan to another) or tax-free exchanges of insurance contracts (Section 1035 exchanges).
 - Write "Rollover" or "Tax-Free Exchange" near line r of Schedule 2 (on the back of Schedule FC) if this applies to any retirement plan transfer or insurance contract exchange.
 - Attach a copy of the federal Form 1099-R or other documentation of the rollover or tax-free exchange if this applies.

D. Situations Relating to Computation

1. Wrong percentage of credit claimed

Situation: The incorrect percentage of credit is claimed in computing the allowable farmland preservation credit.

Solution: (**Note:** This Solution assumes that the 10% special minimum credit provision is not being used.)

- Claim 100% of the amount from line 14 of Schedule FC if the farmland is subject to exclusive agricultural use zoning and is covered by a zoning certificate, unless the following exception applies.

EXCEPTION: If the property is located in the City of Franklin, Milwaukee County, claim only 70% of the line 14 amount.

- Claim 80% of the amount from line 14 of Schedule FC if the farmland is subject to farmland preservation agreement and the prior year's law method is not being used.
- The percentage of credit allowed if the prior year's law method is being used is 70%, computed by completing Worksheet 1 in the farmland preservation credit instruction booklet.
- If the farmland is subject to different percentages of credit (for example, some is subject to exclusive agricultural use zoning and some is subject to a farmland preservation agreement), complete Worksheet 2 in the farmland preservation credit instruction booklet to compute the allowable farmland preservation credit.

2. Income computed incorrectly

Situation: A mathematical error is made in computing total household income on Schedule FC.

Solution: Check and double-check arithmetic on lines 6 through 10 of Schedule FC, on Schedules 1 and 2 on the back of Schedule FC, and on Worksheets 1 and 4, if applicable.

III. ADDITIONAL INFORMATION

If you have any questions about Wisconsin farmland preservation credit, visit or call any Department of Revenue office, or contact the farmland preservation credit unit in Madison by phone at (608) 266-2442, by fax at (608) 267-0834, or by mail at Wisconsin Department of Revenue, Farmland Preservation Credit Unit, Mail Stop 5-144, PO Box 8906, Madison WI 53708-8906. You can also access the department's Internet web site at www.dor.state.wi.us and click on "FAQs" (frequently asked questions), or send an e-mail message to the department at farmland@dor.state.wi.us.